

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JAMES R. PRUTSMAN,

Plaintiff,

v.

RUST CONSULTING, INC., et al.,

Defendants.

No. C 12-6448 PJH

**ORDER DENYING ADMINISTRATIVE
MOTION AND SETTING SCHEDULE
FOR BRIEFING AND HEARING**

Before the court is plaintiff's administrative motion requesting the court to set deadlines for the opposition and reply for defendants' motion to dismiss/stay based on defendants' alleged "failure to provide proper notice" of their motion. Plaintiff argues that defendants' e-filing and electronic service of their motion at 6:09pm on Friday, December 21, 2012 were "invalid," because they occurred "after the office of plaintiff's counsel closed for the holidays."

Plaintiff provides no support for the argument that a motion filed, served, and noticed after the closure of opposing counsel's office should be treated as invalid. Instead, plaintiff cites only to Civil Local Rule 7-2, which requires all motions to be filed, served, and noticed for hearing "not less than 35 days after service of the motion." The rule does not contain any requirement that motions be filed and served before close of business. In fact, Civil Local Rule 5-1(e)(4) expressly states that "all electronic transmissions of documents must be completed . . . prior to midnight in order to be considered timely filed that day." Accordingly, defendants did properly file and serve their motion on December 21, 2012, and plaintiff's motion is DENIED.

However, given the parties' confusion regarding the local rules, and given the court's unavailability to hear defendants' motion on the original noticed hearing date, the court will

1 extend the briefing schedule in this instance. To avoid any such confusion in the future, the
2 parties are advised to familiarize themselves with the local rules regarding motions, briefing
3 schedules, and filing deadlines. Plaintiff's opposition will be due on January 10, 2013, and
4 defendants' reply will be due on January 17, 2013. Defendants' motion to dismiss/stay is
5 set for hearing on February 27, 2013 at 9:00am.

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7 **IT IS SO ORDERED.**

8 Dated: January 4, 2013



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11 PHYLLIS J. HAMILTON
12 United States District Judge
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